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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,390	09/20/2000	Kazuo Ogura	00673/LH	6058

1933 7590 03/23/2005

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EXAMINER

SELBY, GEVELL V

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,390

Applicant(s)

OGURA, KAZUO

Examiner

Gevell Selby

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16,39,45,46 and 67-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,39,45 and 46 is/are allowed.
- 6) ☒ Claim(s) 67-80,82 and 83 is/are rejected.
- 7) ☒ Claim(s) 81 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/01/04 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 67-83 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 67, 68, 72-76, 78, 79, and 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al., 5,768,640.**

In regard to claims 67 and 82, Takahashi et al., 5,768,640, discloses a camera and method for operating the camera comprising:

positioning timing determination means (figure 4, element 31) for determining a positioning timing under a predetermined condition (see column 15, lines 23-30);

positioning means (see figure 4, element 32) for executing positioning at positioning timing determined by the positioning timing determination means to thereby acquire positional information (see column 15, lines 23-30);

instruction means (see figure 4, element 11) for receiving a photographing instruction at an arbitrary timing (see column 15, lines 31-35);

image storing means (film) for storing a photographed image in accordance with the photographing instruction received by instruction means (see column 12, lines 36-44);

positional information storing means (see figure 4, element 39) for storing the positional information acquired by the positioning means association with the photographed image stored by the image storing means (see column 15, lines 41-50);

overlapping determination means (see figure 4, element 11) for determining overlapping of the positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means (see column 16, lines 17-24 and 40-44: The CPU repeats position measuring periodically and when the release switch to pressed, the CPU determines that both processes are set to be performed) ; and

control means (see figure 4, element 31) for, when the overlapping determination means determines that the timings overlap, inhibiting the positioning means from executing positioning at the overlapped positioning timing (see column 15, lines 36-38 and column 16, lines 25-52: The position data is latched during photographing to inhibit inaccurate information to be read into the recoding medium and when the release button is pressed the repeated position measuring is stopped and photographing is performed with the latched position data being associated with the image).

In regard to claim 68, Takahashi et al., 5,768,640 discloses the camera according to claim 67 wherein:

the positioning timing determination means determines a plurality of positioning timings (see column 15, lines 23-30);

the positioning means executes positioning at the plurality positioning timings determined the positioning timing determination means to thereby acquire a plurality of positional information items (see column 15, lines 23-30); and

the positional information storing means stores a positional information item selected from positional information items acquired by the positioning means without being inhibited by the control means, in association with the photographed image stored by the image storing means (see column 16, lines 49-51).

In regard to claim 72, Takahashi et al., 5,768,640 discloses the camera according to claim 68, wherein the positional information storing means stores the positional

information acquired at a positioning timing closest to a timing at which the image is photographed, the plurality of positional information items acquired by the positioning means, in association with the photographed image (see column 15, lines 16-40: The position data is periodically renewed until photographing is set to begin and the latest position data is latched).

In regard to claim 73, Takahashi et al., 5,768,640 discloses the camera according to claim 68, wherein the positioning timing determination means determines the plurality of positioning timings repeated at each predetermined time interval (see column 15, lines 25-30 and 45-50).

In regard to claim 74, Takahashi et al., 5,768,640 discloses the camera according to claim 68, wherein the positioning time determination means determines, as the positioning timing, a timing coming after a predetermined time passes in a state that the photographing instruction received by the instruction means is not received (see column 15, lines 23-28)

In regard to claims 75 and 76, Takahashi et al., 5,768,640, discloses the camera according to claims 67 and 68, respectively, further comprising:

selection means (see figure 4, element 22) for selecting one of a positioning operation by the positioning means (see column 15, lines 23-30) and a photographing operation by the image storing means which has a high priority (see column 15, lines 31-34),

wherein the control means from executing the positioning operation at the overlapped positioning timings, when the positioning timing determined by the

Art Unit: 2615

positioning timing determination means and the timing of receiving the photographing instruction by the instruction means overlap, and photographing operation is selected by the selection means (see column 16, lines 45-52: When the release button is pressed the repeated position measuring is stopped and photographing is performed with the latched position data being associated with the image).

In regard to claims 78, Takahashi et al., 5,768,640, discloses the camera according to claim 67, wherein the positioning timing determination means determines, as the positioning timing, a timing which is determined irrespective of receiving the photographing instruction by the instruction means and which is out of a period from the timing the photographing instruction a time when the photographed timing image is stored (see figure 13, steps 202 and 203).

In regard to claims 79, Takahashi et al., 5,768,640, discloses the camera according to claim 76 wherein positioning timing determination means determines, the positioning timing, a timing at which the photographing mode is turned off (see (see figure 13, step 202).

5. Claims 80 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyake, US 6,222,985.

In regard to claims 80 and 83, Miyake, US 6,222,985, discloses a positioning timing camera and a method for operating the camera comprising:

positioning timing determination means (see figure 1, element 100) for determining a predetermined positioning timing (see column 11, lines 3-5);

positioning means (see figure 1, element 160) executing positioning at the predetermined positioning timing determined by the positioning timing determination means thereby acquire positional information (see column 11, lines 3-5);

instruction means (see figure 1, element 100) for receiving a photographing instruction arbitrary timing (see column 11, lines 19-26);

image storing means (see figure 1, element 150) for storing a photographed image in accordance with the photographing instruction received by the instruction means (see column 11, lines 23-26);

positional information storing means (see figure 1, element 150) for storing positional information acquired the positioning means association with the photographed image stored by the image storing means (see column 8, lines 48-54);

notification means (see figure 1, elements 98, 77, and 92) for notifying that positioning executed the positioning means period during which the positioning is executed by the positioning means (see column 11, lines 12-18);

and control means (see figure 1, element 100) for inhibiting the image storing means from executing photographing during a period until the positioning of the positioning means is ended, when the positioning timing determined by the positioning timing determination means and the timing receiving the photographing instruction by the instruction means overlap (see column 11, lines 12-18).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 69-71, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al., 5,768,640, in view of Ohkado, US 6,351,613.**

In regard to claim 69, Takahashi et al., 5,768,640 discloses the camera according to claim 68, wherein:

the image storing means stores a plurality of images photographed during a serial photograph in accordance with the photographing instruction received by the instruction means (see column 16, lines 56-62: The photographed image is stored on the film and then the film is advanced to repeat the process and store the next image taken; the images are taken can be taken in series until all the film is used)

the overlapping determination means determines the overlapping of the timings when the positioning timing determined by the positioning timing determination means during a period from a time when image storing means starts the continuous photographing to a time when the image storing means ends the continuous photographing (see column 15, lines 16-37: It is inherent the CPU determines the overlapping of release switch signal to begin photographing with

the intermittent positioning, so that photographing can be done each time the operating routine is preformed until the film is full).

The Takahashi reference does not disclose wherein:

the positioning means executes positioning at positioning timings other than the period from the time when the image storing means starts the continuous photographing to the time when the image storing means ends the continuous photographing, to thereby acquire the positional information; and

the positional information storing means stores one of the positional information items acquired at the positioning timings other than the period from the time when the image storing means starts the continuous photographing to the time when image storing means ends the continuous photographing, in association with the plurality of photographed images stored by the storing means.

Ohkado, US 6,351,613, discloses a camera that receive position information wherein during a continuous shooting mode:

the positioning means executes positioning at positioning timings other than the period from the time when the image storing means starts the continuous photographing to the time when the image storing means ends the continuous photographing, to thereby acquire the positional information (see column 6, lines 50-61); and

the positional information storing means stores one of the positional information items acquired at the positioning timings other than the period from the time when the image storing means starts the continuous photographing to the

time when image storing means ends the continuous photographing, in association with the plurality of photographed images stored by the storing means (see column 6, lines 55-61).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Takahashi et al., 5,768,640, in view of Ohkado, US 6,351,613 to have a continuous shooting mode wherein:

the positioning means executes positioning at positioning timings other than the period from the time when the image storing means starts the continuous photographing to the time when the image storing means ends the continuous photographing, to thereby acquire the positional information; and

the positional information storing means stores one of the positional information items acquired at the positioning timings other than the period from the time when the image storing means starts the continuous photographing to the time when image storing means ends the continuous photographing, in association with the plurality of photographed images stored by the storing means, in order to for the mode to capture images quickly.

In regard to claim 70, Takahashi et al., 5,768,640, in view of Ohkado, US 6,351,613, discloses the camera according to claim 69. The Ohkado reference discloses wherein the image storing means stores the plurality of photographed images series, at each predetermined time interval, accordance with the photographing instruction received the instruction means (see column 7, lines 8-21).

In regard to claim 71, Takahashi et al., 5,768,640, in view of Ohkado, US 6,351,613, discloses the camera according to claim 69. The Ohkado reference discloses further comprising:

setting means (see figure 1, element 34) for setting a continuous photographing mode, wherein the image storing means stores a predetermined number of photographed images series, at each predetermined time interval, when the image storing means receives the photographing instruction received by the instruction means in state that the continuous photographing mode set by the setting means(see column 6, lines 13-32).

In regard to claim 77, Takahashi et al., 5,768,640, in view of Ohkado, US 6,351,613, discloses the camera according to claim 69. The Takahashi reference discloses further comprising:

selection means (see figure 4, element 22) for selecting one of a positioning operation by the positioning means (see column 15, lines 23-30) and a photographing operation by the image storing means which has a high priority (see column 15, lines 31-34),

wherein the control means from executing the positioning operation at the overlapped positioning timings, when the positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means overlap, and photographing operation is selected by the selection means (see column 16, lines 45-52: When the release button is pressed the repeated position measuring is stopped and

photographing is performed with the latched position data being associated with the image).

Allowable Subject Matter

8. Claims 16, 39, 45, and 46 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 16 and 39, the prior art does not disclose a camera with a first and second positioning timing control means as claimed in claim 16 and 39.

In regard to claim 45, the prior art does not disclose the camera according to claim 1, wherein said predetermined timing for obtaining said positional information is when a date is changed.

In regard to claim 46, the prior art does not disclose the camera of claim 1, wherein the predetermined timing for obtaining the positional information is when a folder provided in the memory means as a storage location for a photographed image is changed or a folder is newly provided.

9. Claim 81 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to claim 81, the prior art does not disclose the combination of limitations claimed, specifically the limitations of selection means for selecting one of a positioning

Art Unit: 2615

operation by positioning means and a photographing operation by the image storing means which has a high priority, and

wherein the control means inhibits the positioning means from executing the positioning operation at the overlapped positioning timings, when the positioning timing determined by the positioning timing determination means and the timing of receiving photographing instruction by the instruction means overlap, and the photographing operation selected by selection means.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs


TUAN HO
PRIMARY EXAMINER